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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,287	10/20/2003	James R. McDonald	MCDZ 2 00001	3155
27885	7590	08/01/2005	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP			BLAU, STEPHEN LUTHER	
1100 SUPERIOR AVENUE, SEVENTH FLOOR			ART UNIT	
CLEVELAND, OH 44114			PAPER NUMBER	

3711

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/689,287

Applicant(s)

MCDONALD, JAMES R.

Examiner

Stephen L. Blau

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-11,13,14 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,6-11 and 13 is/are allowed.
- 6) ☒ Claim(s) 14,16-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The changes to claim 11 are agreed with and the rejection under 35 U.S.C. 112, second paragraph, is removed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 14, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Robinson.

Robinson discloses a grip alignment device comprising a body to fit over a grip (Fig. 1), a tab (3A, Fig. 2) able to receive a thumb in the form of the thumb being in the cradle (Fig. 1), a recesses seat (3B) able to receive an index finger in the form of a cradle being large enough to receive a thumb and a finger (Fig. 1) on opposed sides of the body from a tab in the form of the base (3B) being on the opposite side of the body from the slot of the other tab (See enclosure (1)) wherein a remainder of a hand is substantially not in contact with a device, a seat defines an opening in a body in the

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form of the base next to the slot (Fig. 2), an indicator adjacent a tab in the form of the end of the tab and device indicating the end of the tab and device (Fig. 4), a substantially cylindrical configuration (Figs. 1-2 and 3), and an attachment mechanism in the form of a single unit (Col. 4, Lns. 38-44) that selectively attaches a first portion to a second portion (Fig. 2).

4. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Spoonster.

Spoonster discloses a golf grip alignment apparatus having a first portion (Fig. 5, Ref. No. 11), a second portion (Fig. 5, Ref. No. 12), a hinge connecting a first portion to a second portion (Fig. 4), means for joining a first portion and a second portion (Ref. Nos. 19-20), and a protuberance portion in the form of the rise between the seats able to receive a thumb (Fig. 1, Ref. No. 21).

Allowable Subject Matter

5. Claims 1-3, 6-11 and 13 are allowed. None of the prior art discloses an grip alignment apparatus sized to removably attach to a grip, a hinge, a recessed seat, and first portion having a tab extending radially from the body having a longitudinal axis parallel to the longitudinal axis of the body of the apparatus in addition to the other elements of structure claimed.

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6. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. None of the prior art discloses a grip alignment device fitted over a grip, a tab, a recess seat defining an opening in a body, a remainder of a hand substantially not in contact with a device and a hinge in addition to the other elements of structure claimed.

Response to Arguments

7. The argument that claim 21 does not read on Spoonster is disagreed with. As stated above Spoonster discloses all the structure claimed. The structure of Spoonster is able to perform the function as claimed.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

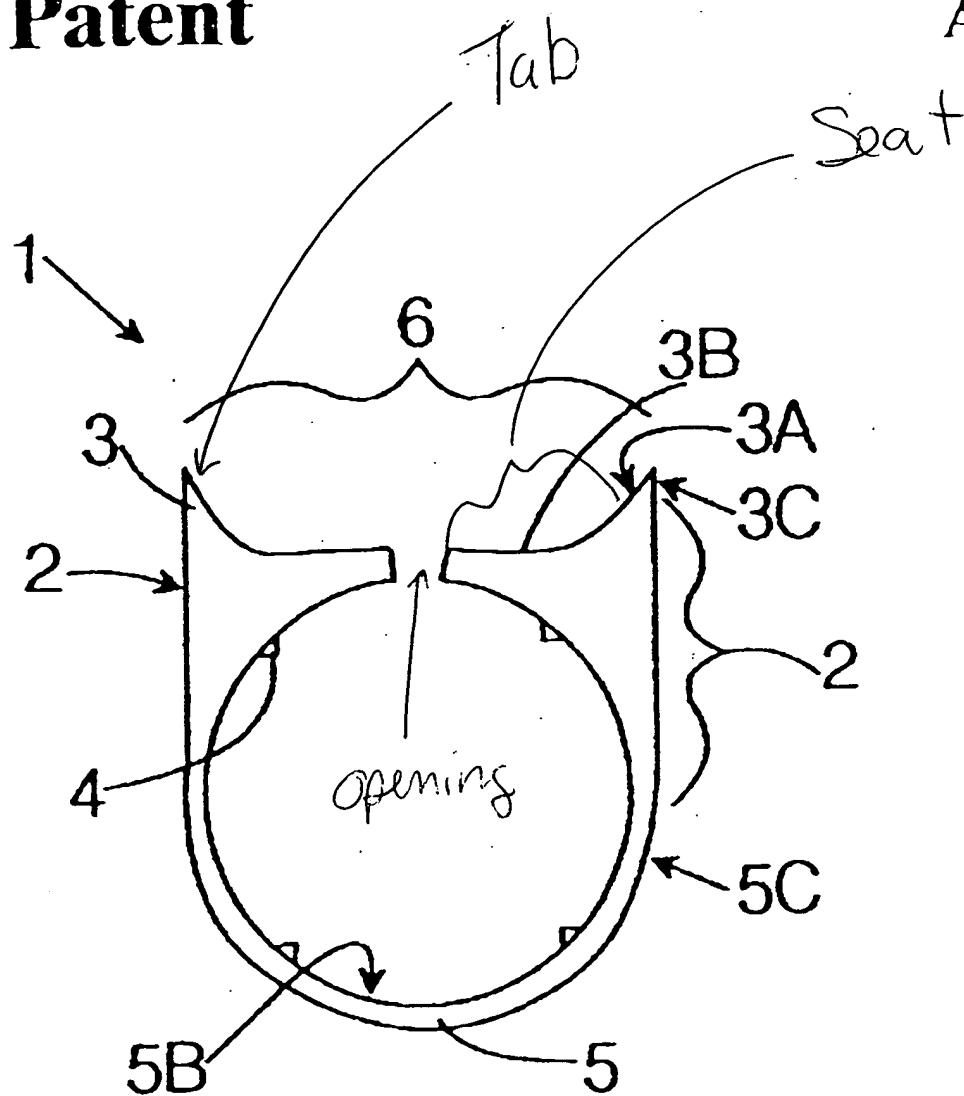
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Blau whose telephone number is (571) 272-4406. The examiner is available Monday through Friday from 8 a.m. to 4:30 p.m.. If the examiner is unavailable you can contact his supervisor Greg Vidovich whose telephone number is (571) 272-4415. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858. (TC 3700 Official Fax 703-872-9306)

slb/ 10 June 2005


STEPHEN BLAU
PRIMARY EXAMINER

U.S. Patent

Ap



Endosure (1)